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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SECOND APPEAL No 72 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

JASHODABEN NARANBHAI MOTIBHAI PATEL

Versus

PARSHOTAMDAS K PATEL

Appearance:

1. Second Appeal No. 72 of 1983
MR RC JANI for Petitioner
MR KC SHAH for Respondent No. 1

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 08/12/2000

ORAL JUDGEMENT

1. This Second Appeal is preferred to challenge the judgment and decree passed in Regular Civil Appeal No.239 of 1980 by the learned Second Extra Assistant Judge, Kheda, at Nadiad on the 5th January, 1983. The said

Regular Civil Appeal arose out of a judgment and decree passed by the learned Civil Judge (J.D.), Anand, on the 4th November, 1989, in Regular Civil Suit No.136 of 1976.

2. The case of the plaintiff in the plaint was that he is the owner of a house bearing City Tikka No.4/291 situate in Gosaiwada, at Anand, the description of which has been given in detail in the plaint. To the west of the said house of the plaintiff, there is the house of the defendant and that there is a wall between their houses upto Ravesh (entry). There is an open courtyard (Chowk) covered by corrugated sheets in the house of the plaintiff. That there is a Chowk admeasuring 13 1/2 feet on the west after the boundary of the public road in north south direction. The defendant has placed an iron gate in the Chowk of the plaintiff for about six years and, instead of removing it, the defendant tried to use the land of the plaintiff. The plaintiff, therefore, filed the suit for declaration that the Chowk is or her ownership and the defendant be directed to remove the said gate and with a further direction restraining him from putting up the gate and using the Chowk in future.

3. The suit was contested by the defendant. The case of the defendant is that the suit is false, illegal and liable to be dismissed. Dispute was raised regarding boundaries of the ownership of Chowk as claimed by the plaintiff. That the suit suffers from the defect of delay, laches and acquiescence and that the suit may be dismissed.

4. The Trial Court, after considering the evidence led by the parties, dismissed the suit with costs, which gave rise to Regular Civil Appeal No.239 of 1980 before the District Court, at Nadiad. The Lower Appellate Court also dismissed the appeal on merits, confirming the judgment and decree of the Trial Court. The plaintiff has, therefore, approached this Court with this Second Appeal.

5. At the hearing, the parties were present and with the active contribution of the learned counsel for both the sides, they have arrived at a compromise and the dispute is settled. The said compromise Purshis duly signed by the appellant-plaintiff before a Notary Public, by the respondent-defendant in this Court and duly attested by learned advocates for the parties is produced before this Court. It is in Gujarati language. Learned advocate Mr. K.C. Shah has produced a translated version of the said Purshis, which is also signed by the parties and their respective advocates. A map is also

attached to the compromise Purshis which should form part of the compromise agreement. Respondent-Patel Indubhai Parshottamdas is present. He admits to have entered into the compromise voluntarily and further agrees to abide by the same.

6. The compromise Purshis, both in English as well as Gujarati, along with the annexed map is ordered to be taken on record. The appeal would stand disposed of in terms of the compromise. Decree to be drawn in terms of the compromise. No costs.

[A.L. DAVE, J.]

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